

**§ 641.120 What are the purposes of the SCSEP?**

The purposes of the SCSEP are to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are 55 years of age or older and who have poor employment prospects; to foster individual economic self-sufficiency; and to increase the number of older persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors.

**§ 641.130 What is the scope of this part?**

The regulations in this part address the requirements that apply to the SCSEP. More detailed policies and procedures are contained in administrative guidelines issued by the Department. Throughout this part, phrases such as, “according to instructions (procedures) issued by the Department” or “additional guidance will be provided through administrative issuance” refer to the SCSEP Bulletins, technical assistance guides, and other SCSEP directives.

**§ 641.140 What definitions apply to this part?**

The following definitions apply to this part:

*Additional indicators* mean retention in unsubsidized employment for one year; and satisfaction of participants, employers and their host agencies with their experiences and the services provided and any other indicators of performance that the Secretary determines to be appropriate to evaluate services and performance. (§ 513(b)(2) as amended by Pub. L. 109–365).

*At risk for homelessness* means an individual is likely to become homeless and the individual lacks the resources and support networks needed to obtain housing.

*Authorized position level* means the number of SCSEP enrollment opportunities that can be supported for a 12-month period based on the average national unit cost. The authorized position level is derived by dividing the total amount of funds appropriated for a Program Year by the national average unit cost per participant for that

Program Year as determined by the Department. The national average unit cost includes all costs of administration, other participant costs, and participant wage and fringe benefit costs as defined in section 506(g) of the OAA. A grantee’s total award is divided by the national unit cost to determine the authorized position level for each grant agreement.

*Co-enrollment* applies to any individual who meets the qualifications for SCSEP participation as well as the qualifications for any other relevant program as defined in the Individual Employment Plan.

*Community service* includes, but is not limited to, social, health, welfare, and educational services (including literacy tutoring); legal assistance, and other counseling services, including tax counseling and assistance and financial counseling; library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; anti-pollution and environmental quality efforts; weatherization activities; and economic development. (OAA sec. 516(1)).

*Community service employment* means part-time, temporary employment paid with grant funds in projects in host agencies through which eligible individuals are engaged in community service and receive work experience and job skills that can lead to unsubsidized employment. (§ 518(a)(2) as amended by Pub. L. 109–365).

*Core indicators* means hours (in the aggregate) of community service employment; entry into unsubsidized employment; retention in unsubsidized employment for six months; earnings; the number of eligible individuals served; and most-in-need (the number of individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518 of the OAA). (§ 513(b)(1) as amended by Pub. L. 109–365).

*Core services* means those services described in section 134(d)(2) of WIA.

*Department or DOL* means the United States Department of Labor, including its agencies and organizational units.

*Disability* means a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in

substantial functional limitations in one or more of the following areas of major life activity:

- (1) Self-care;
- (2) Receptive and expressive language;
- (3) Learning;
- (4) Mobility;
- (5) Self-direction;
- (6) Capacity for independent living;
- (7) Economic self-sufficiency;
- (8) Cognitive functioning; and
- (9) Emotional adjustment.

(42 U.S.C. 3002(13)).

*Equitable distribution report* means a report based on the latest available Census data, which lists the optimum number of participant positions in each designated area in the State, and the number of authorized participant positions each grantee serves in that area, taking the needs of underserved counties into account. This report provides a basis for improving the distribution of SCSEP positions.

*Frail* means an individual 55 years of age or older who is determined to be functionally impaired because the individual—

- (1)(i) Is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or
- (ii) At the option of the State, is unable to perform at least three such activities without such assistance; or
- (2) Due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

(42 U.S.C. 3002(22)).

*Grant period* means the time period between the effective date of the grant award and the ending date of the award, which includes any modifications extending the period of performance, whether by the Department's exercise of options contained in the grant agreement or otherwise. Also referred to as "project period" or "award period."

*Grantee* means an entity receiving financial assistance directly from the Department to carry out SCSEP activities. The grantee is the legal entity

that receives the award and is legally responsible for carrying out the SCSEP, even if only a particular component of the entity is designated in the grant award document. Grantees include States, Tribal organizations, territories, public and private non-profit organizations, agencies of a State government or a political subdivision of a State, or a combination of such political subdivisions that receive SCSEP grants from the Department. (OAA sec. 502). In the case of the section 502(e) projects, grantee may be used to include private business concerns. As used here, "grantees" include "grantees" as defined in 29 CFR 97.3 and "recipients" as defined in 29 CFR 95.2(g).

*Greatest economic need* means the need resulting from an income level at or below the poverty guidelines established by the Department of Health and Human Services and approved by the Office of Management and Budget. (OAA sec. 101(27)).

*Greatest social need* means the need caused by non-economic factors, which include: physical and mental disabilities; language barriers; and cultural, social, or geographical isolation, including isolation caused by racial or ethnic status that restricts the ability of an individual to perform normal daily tasks, or threatens the capacity of the individual to live independently. (OAA sec. 101(28)).

*Homeless* includes

- (1) An individual who lacks a fixed, regular, and adequate nighttime residence; and
- (2) An individual who has a primary nighttime residence that is:

- (i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
- (ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or
- (iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodations for human beings.

(42 U.S.C. 11302(a)).

*Host agency* means a public agency or a private nonprofit organization exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986, other than a political party, which provides a work site and supervision for one or more participants. (See also OAA sec. 502(b)(1)(C)). A host agency may be a religious organization as long as the projects do not involve the construction, operation, or maintenance of any facility used or to be used as a place for religious instruction or worship.

*Indian* means a person who is a member of an Indian Tribe. (OAA sec. 101(5)).

*Indian Tribe* means any Tribe, band, nation, or other organized group or community of Indians (including Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act) which:

(1) Is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

(2) Is located on, or in proximity to, a Federal or State reservation or rancheria. (OAA sec. 101(6)).

*Individual employment plan or IEP* means a plan for a participant that includes an employment goal, achievement of objectives, and appropriate sequence of services for the participant based on an assessment conducted by the grantee or subgrantee and jointly agreed upon by the participant. (OAA sec. 502(b)(1)(N)).

*Intensive services* means those services authorized by section 134(d)(3) of the Workforce Investment Act.

*Jobs for Veterans Act* means the program established in section 2 of Public Law 107-288 (2002) (38 U.S.C. 4215), that provides a priority for veterans and the spouse of a veteran who died in a service-connected disability, the spouse of a member of the Armed Forces on active duty who has been listed for a total of more than 90 days as missing in action, captured in the line of duty by a hostile force, or forcibly detained by a foreign government or power, the spouse of any veteran who has a total disability resulting from a service-connected disability, and the spouse of any veteran who died while a disability so

evaluated was in existence, who meet program eligibility requirements to receive services in any Department of Labor-funded workforce development program.

*Limited English proficiency* means individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

*Local Workforce Investment Area* or local area means an area established by the Governor of a State under section 116 of the Workforce Investment Act.

*Local Board* means a Local Workforce Investment Board established under section 117 of the Workforce Investment Act.

*Low employment prospects* means the likelihood that an individual will not obtain employment without the assistance of the SCSEP or another workforce development program. Persons with low employment prospects have a significant barrier to employment. Significant barriers to employment may include but are not limited to: Lacking a substantial employment history, basic skills, and/or English-language proficiency; lacking a high school diploma or the equivalent; having a disability; being homeless; or residing in socially and economically isolated rural or urban areas where employment opportunities are limited.

*Low literacy skills* means the individual computes or solves problems, reads, writes, or speaks at or below the 8th grade level or is unable to compute or solve problems, read, write, or speak at a level necessary to function on the job, in the individual's family, or in society.

*Most-in-need* means participants with one or more of the following characteristics: Have a severe disability; are frail; are age 75 or older; are age-eligible but not receiving benefits under title II of the Social Security Act; reside in an area with persistent unemployment and have severely limited employment prospects; have limited English proficiency; have low literacy skills; have a disability; reside in a rural area; are veterans; have low employment prospects; have failed to find employment after utilizing services provided under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 *et*

*seq.*); or are homeless or at risk for homelessness. (Older Americans Act (OAA) section 513(b)(1)(E) as amended by Pub. L. 109-365).

*National grantee* means a public or non-profit private agency or organization, or Tribal organization, that receives a grant under title V of the OAA (42 U.S.C. 3056 *et seq.*) to administer a SCSEP project. (See OAA section 506(g)(5) as amended by Pub. L. 109-365).

*OAA* means the Older Americans Act as amended by the Older Americans Act Amendments of 2000 (Pub. L. 106-501; 42 U.S.C. 3056 *et seq.*).

*One-Stop Center* means the One-Stop Center system in a WIA Local Area which must include a comprehensive One-Stop Center through which One-Stop partners provide applicable core services and which provides access to other programs and services carried out by the One-Stop partners. (See WIA sec. 134(c)(2)).

*One-Stop Delivery System* means a system under which employment and training programs, services, and activities are available through a network of eligible One-Stop partners, which assures that information about and access to core services is available regardless of where the individuals initially enter the statewide workforce investment system. (WIA sec. 134(c)(2)).

*One-Stop partner* means an entity described in section 121(b)(1) of the Workforce Investment Act; *i.e.*, required partners, and an entity described in section 121(b)(2) of the Workforce Investment Act, *i.e.*, additional partners.

*Other participant (enrollee) cost* means the cost of participant training, including the payment of reasonable costs to instructors, classroom rental, training supplies, materials, equipment, and tuition, and which may be provided on the job or in conjunction with a community service assignment, in a classroom setting, or under other appropriate arrangements; job placement assistance, including job development and job search assistance; participant supportive services to assist a participant to successfully participate in a project, including the payment of reasonable costs of transportation, health care and medical services, special job-related or personal counseling, incidentals (such as work shoes,

badges, uniforms, eyeglasses, and tools), child and adult care, temporary shelter, and follow-up services; and outreach, recruitment and selection, intake orientation, and assessments. (OAA sec. 502(c)(6)(A)).

*Participant* means an individual who is eligible for the SCSEP, has been enrolled and is receiving services as prescribed under subpart E of this part.

*Persistent unemployment* means that the annual average unemployment rate for a county or city is more than 20 percent higher than the national average for two out of the last three years.

*Placement into public or private unsubsidized employment* means full- or part-time paid employment in the public or private sector by a participant for 30 days within a 90-day period without the use of funds under title V or any other Federal or State employment subsidy program, or the equivalent of such employment as measured by the earnings of a participant through the use of wage records or other appropriate methods. (OAA sec. 513(c)(2)(A)).

*Poor employment prospects* means the likelihood that an individual will not obtain employment without the assistance of the SCSEP or any other workforce development program. Persons with poor employment prospects include, but are not limited to, those without a substantial employment history, basic skills, and/or English-language proficiency; displaced homemakers, school dropouts, persons with disabilities, including disabled veterans, homeless individuals, and individuals residing in socially and economically isolated rural or urban areas where employment opportunities are limited.

*Program year* means the one-year period beginning July 1 and ending on June 30. (OAA sec. 515(b)).

*Project* means an undertaking by a grantee or subgrantee according to a grant agreement that provides community service, training, and employment opportunities to eligible individuals in a particular location within a State.

*Recipient* means grantee. As used here, "recipients" include "recipients" as defined in 29 CFR 95.2(g) and "grantees" as defined in 29 CFR 97.3.

*Residence* means an individual's declared dwelling place or address as

demonstrated by appropriate documentation.

*Retention in public or private unsubsidized employment* means full- or part-time paid employment in the public or private sector by a participant for 6 months after the starting date of placement into unsubsidized employment without the use of funds under title V or any other Federal or State employment subsidy program. (OAA sec. 513(c)(2)(B)).

*Rural* means an area not designated as a metropolitan statistical area by the Census Bureau; segments within metropolitan counties identified by codes 4 through 10 in the Rural Urban Commuting Area (RUCA) system; and RUCA codes 2 and 3 for census tracts that are larger than 400 square miles and have population density of less than 30 people per square mile.

*SCSEP* means the Senior Community Service Employment Program authorized under title V of the OAA.

*Service area* means the geographic area served by a local SCSEP project.

*Severe disability* means a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that—

- (1) Is likely to continue indefinitely; and
- (2) Results in substantial functional limitation in 3 or more of the following areas of major life activity:
  - (i) Self-care;
  - (ii) Receptive and expressive language;
  - (iii) Learning;
  - (iv) Mobility;
  - (v) Self-direction;
  - (vi) Capacity for independent living;
  - (vii) Economic self-sufficiency.

(42 U.S.C. 3002(48)).

*Severely limited employment prospects* means a substantially higher likelihood that an individual will not obtain employment without the assistance of the SCSEP or another workforce development program. Persons with severely limited employment prospects have more than one significant barrier to employment; significant barriers to employment may include but are not limited to: Lacking a substantial employment history, basic skills, and/or

English-language proficiency; lacking a high school diploma or the equivalent; having a disability; being homeless; or residing in socially and economically isolated rural or urban areas where employment opportunities are limited.

*State Workforce Agency* means the State agency that administers the State Wagner-Peyser program.

*State Board* means a State Workforce Investment Board established under section 111 of the Workforce Investment Act.

*State grantee* means the entity designated by the Governor to enter into a grant with the Department to administer a State or territory SCSEP project under the OAA. Except as applied to funding distributions under section 506 of the OAA, this definition applies to the 50 States, Puerto Rico, the District of Columbia and the following territories: Guam, American Samoa, U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

*State Plan* means the State Senior Employment Services Coordination Plan required under section 503(a) of the OAA.

*Subgrantee* means the legal entity to which a subaward of financial assistance, which may include a subcontract, is made by the grantee (or by a higher tier subgrantee or recipient), and that is accountable to the grantee for the use of the funds provided. As used here, “subgrantee” includes “subgrantees” as defined in 29 CFR 97.3 and “subrecipients” as defined in 29 CFR 95.2(kk).

*Subrecipient* means a subgrantee.

*Title V of the OAA* means 42 U.S.C. 3056 *et seq.* or title V of Public Law 106–501.

*Training services* means those services authorized by section 134(d)(4) of the Workforce Investment Act.

*Tribal organization* means the recognized governing body of any Indian Tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body. (OAA sec. 101(7)).

*Veteran* means an individual who is a “covered person” for purposes of the Jobs for Veterans Act, 38 U.S.C. 4215(a)(1).

*Workforce Investment Act or WIA* means the Workforce Investment Act of 1998 (Public Law 105-220—Aug. 7, 1998; 112 Stat. 936); 29 U.S.C. 2801 *et seq.*

*Workforce Investment Act regulations or WIA regulations* means regulations at 20 CFR part 652 and parts 660–671.

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### Subpart B—Coordination With the Workforce Investment Act

#### § 641.200 What is the relationship between the SCSEP and the Workforce Investment Act?

The SCSEP is a required partner under the Workforce Investment Act. As such, it is a part of the One-Stop Delivery System. SCSEP grantees are required to follow all applicable rules under WIA and its regulations. (WIA section 121(b)(1)(B)(vi) (29 U.S.C. 2841(b)(1)(B)(vi)) and the 29 CFR part 662 subpart B (§§ 662.200 through 662.280))

#### § 641.210 What services, in addition to the applicable core services, must SCSEP grantees provide through the One-Stop Delivery System?

In addition to providing core services, SCSEP grantees must make arrangements through the One-Stop Delivery System to provide eligible and ineligible individuals with access to other activities and programs carried out by other One-Stop partners.

#### § 641.220 Does title I of WIA require the SCSEP to use OAA funds for individuals who are not eligible for SCSEP services or for services that are not authorized under the OAA?

No, SCSEP requirements continue to apply. Title V resources may only be used to provide title V services to title V-eligible individuals. The Workforce Investment Act creates a seamless service delivery system for individuals seeking workforce development services by linking the One-Stop partners in the One-Stop Delivery System. Although the overall effect is to provide universal access to core services, SCSEP resources may only be used to provide services that are authorized and provided under the SCSEP to eligible individuals. Title V funds can be

used to pay wages to SCSEP participants receiving intensive and training services under title I of WIA provided that the SCSEP participants are functioning in a community service assignment. All other individuals who are in need of the services provided under the SCSEP, but who do not meet the eligibility criteria to enroll in the SCSEP, should be referred to or enrolled in WIA or other appropriate partner programs. (WIA sec. 121(b)(1)). These arrangements should be negotiated in the MOU.

#### § 641.230 Must the individual assessment conducted by the SCSEP grantee and the assessment performed by the One-Stop Delivery System be accepted for use by either entity to determine the individual's need for services in the SCSEP and adult programs under title IB of WIA?

Yes, section 502(b)(4) of the OAA provides that an assessment or IEP completed by the SCSEP satisfies any condition for an assessment, service strategy, or IEP completed at the One-Stop and vice-versa. These reciprocal arrangements and the contents of the SCSEP IEP and WIA IEP should be negotiated in the MOU. (OAA sec. 502(b)(4)).

#### § 641.240 Are SCSEP participants eligible for intensive and training services under title I of WIA?

(a) Yes, although SCSEP participants are not automatically eligible for intensive and training services under title I of WIA, Local Boards may deem SCSEP participants, either individually or as a group, as satisfying the requirements for receiving adult intensive and training services under title I of WIA.

(b) SCSEP participants who have been assessed through an SCSEP IEP have received an intensive service according to 20 CFR 663.240(a) of the WIA regulations. SCSEP participants who seek unsubsidized employment as part of their SCSEP IEP, may require training to meet their objectives. The SCSEP grantee/subgrantee, the host agency, the WIA program, or another One-Stop partner may provide training as appropriate and as negotiated in the MOU.